

APPEAL NO. 010788

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 21, 2001. With respect to the issues before him, the hearing officer determined that the appellant (claimant) did not have good cause for failing to attend her scheduled required medical examination (RME) appointment on November 8, 2000, and that she had disability from November 10, 2000, through March 7, 2001. On appeal, the claimant requests clarification as to whether she had good cause for failing to attend the RME appointment. The respondent (self-insured) urges affirmance.

DECISION

Affirmed.

The claimant argues on appeal that the hearing officer's Finding of Fact No. 6 is confusing, as it seems to indicate that a traffic stop, which according to the claimant prevented her from attending the scheduled appointment on November 8, 2000, "made it inconvenient to make it to the appointment, but is not good cause any way [sic]." The claimant seeks clarification of whether she had good cause for failing to attend the RME appointment. Finding of Fact No. 6 states:

Claimant did not present herself for physical examination on November 8, 2000, as she did not go to the physician's office. Claimant was stopped for a traffic ticket and such [sic] that it was not convenient to travel to the doctor's office. Claimant called the office after the appointment time on November 8, 2000. *Claimant did not have good cause for failing to present herself for an examination on November 8, 2000.* As of November 8, 2000, Claimant had not rescheduled the examination to seven days after November 8, 2000 or to the doctor's first available date. [Emphasis added.]

It appears quite clear that the hearing officer found that the claimant did not have good cause for failing to attend the RME appointment on November 8, 2000, and upon reviewing the record in this case, we perceive no error in this determination. The hearing officer could consider the context of this event as the latest in a series of missed appointments. He could disbelieve her assertion that the car would be impounded unless she returned it that moment to her friend. The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them to be so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 224 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

Susan M. Kelley
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Robert W. Potts
Appeals Judge